

# **Exhibit 91**

Confidential  
JOHN D. FINNERTY - 05/14/2015

Page 1

1 C O N F I D E N T I A L

2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 -----X  
5 IN RE THE BEAR STEARNS COMPANIES, INC.  
6 SECURITIES, DERIVATIVE, AND ERISA  
7 LITIGATION

8 Master File No.:  
9 08 M.D.L. 1963 (RWS)

10 This Document Relates to:

11 Securities Action, No. 08 Civ. 2793 (RWS)  
12 -----X  
13 BRUCE S. SHERMAN,  
14  
15 Plaintiff,  
16  
17 v. Index No.:  
18 09 Civ. 8161 (RWS)

19 BEAR STEARNS COMPANIES INC., JAMES CAYNE,  
20 WARREN SPECTOR AND DELOITTE & TOUCHE LLP,  
21  
22 Defendants  
23 -----X  
24 VIVINE H. WANG,  
25  
26 Plaintiff,  
27  
28 v. Index No.:  
29 11 Civ. 5643 (RWS)

30 THE BEAR STEARNS COMPANIES LLC, J.P.  
31 MORGAN SECURITIES LLC, J.P. MORGAN  
32 CLEARING CORP., DELOITTE & TOUCHE LLP,  
33 ALAN D. SCHWARTZ, ALAN C. GREENBERG, JOEY  
34 ZHOU, and GARRETT BLAND,  
35  
36 Defendants.  
37 -----X

38 (CAPTION CONTINUED ON NEXT PAGE)

39  
40  
41  
42  
43  
44  
45

Confidential  
JOHN D. FINNERTY - 05/14/2015 Pages 54..57

<p style="text-align: right;">Page 54</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 after document. So anybody reading the</p> <p>3 report will know exactly what I have</p> <p>4 relied upon. It's everything that's</p> <p>5 heavily footnoted.</p> <p>6 Q. So anything that is cited in</p> <p>7 the report, including quotations in the</p> <p>8 report, are documents that you relied</p> <p>9 upon and you're distinguishing -- let me</p> <p>10 just ask that question. Those are</p> <p>11 documents relied upon?</p> <p>12 A. Those are documents that I</p> <p>13 relied upon, heavily relied upon because</p> <p>14 I've cited them and footnoted them.</p> <p>15 There are other documents that</p> <p>16 I relied upon that are in this list that</p> <p>17 I didn't necessarily footnote, but</p> <p>18 they're listed here in the, in appendix</p> <p>19 B, and appendix B also has other</p> <p>20 documents that I considered that I</p> <p>21 considered to such an extent that I, I</p> <p>22 would have either used them as background</p> <p>23 information or as information that was</p> <p>24 useful and helpful in forming my</p> <p>25 opinions</p> <p style="text-align: right;">Page 55</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 I've tried to err on the side</p> <p>3 of being more inclusive rather than less,</p> <p>4 but as I've testified, I didn't include</p> <p>5 every document I touched</p> <p>6 Q. Did you review every document</p> <p>7 that's listed in documents considered?</p> <p>8 A. Yes, I did.</p> <p>9 Q. And the documents that you</p> <p>10 said were identified as significant</p> <p>11 documents through your search routine,</p> <p>12 are those all included in appendix B to</p> <p>13 your report?</p> <p>14 A. The ones that inform my</p> <p>15 opinions or served as background, those</p> <p>16 would be included. There are other</p> <p>17 significant documents that I reviewed,</p> <p>18 but I decided that either they were</p> <p>19 duplicative, in fact, a lot of them were</p> <p>20 duplicative, as with any email string,</p> <p>21 what will happen is you have 10 emails in</p> <p>22 the string and sometimes we'd have all 10</p> <p>23 of them in separate emails. I'm only</p> <p>24 going to list the one that has all 10</p> <p>25 But the ones that, the</p>	<p style="text-align: right;">Page 56</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 documents, particularly the emails, the</p> <p>3 reports that informed my opinions, those</p> <p>4 are listed here. The others I touched</p> <p>5 that didn't, I didn't find helpful, I</p> <p>6 cast them aside.</p> <p>7 Q. Okay. And other than the</p> <p>8 request for JPMorgan's valuations, you</p> <p>9 said you've made no other requests of</p> <p>10 plaintiffs for documents; is that</p> <p>11 correct?</p> <p>12 A. I made one other request last</p> <p>13 week, or requested that counsel make the</p> <p>14 request. I don't know if that request</p> <p>15 has been conveyed to the defendants. So</p> <p>16 there was one other request.</p> <p>17 Q. What was that request?</p> <p>18 A. That was really discussed with</p> <p>19 counsel. I think before I answer that</p> <p>20 question I'd like to talk to counsel</p> <p>21 whether I should tell you. I guess</p> <p>22 that's --</p> <p>23 MR. HENKEN: You can go ahead</p> <p>24 and answer that one.</p> <p>25 THE WITNESS: Excuse me?</p> <p style="text-align: right;">Page 57</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 MR. HENKEN: You can answer</p> <p>3 that.</p> <p>4 A. Okay. I asked counsel if we</p> <p>5 could obtain copies of the Deloitte &amp;</p> <p>6 Touche workpapers that would contain the,</p> <p>7 any of the valuations or all the</p> <p>8 valuations that Deloitte &amp; Touche did in</p> <p>9 connection with its audits in '06 and</p> <p>10 '07, and I asked for workpapers relating</p> <p>11 to the, any going concern analysis that</p> <p>12 Deloitte &amp; Touche did in connection with</p> <p>13 either of those audits.</p> <p>14 Q. And why did you ask for that</p> <p>15 information?</p> <p>16 A. One of the issues that's</p> <p>17 important is the, in this matter is the</p> <p>18 valuations that Bear Stearns did and</p> <p>19 whether the assets were carried on the</p> <p>20 books at accurate valuations or whether</p> <p>21 they were overvalued. An audit firm, I</p> <p>22 was a partner of an audit firm at one</p> <p>23 point, an audit firm of the caliber of</p> <p>24 Deloitte &amp; Touche will do, in my</p> <p>25 experience, very thorough checking of the</p>
---	--



Confidential  
JOHN D. FINNERTY - 05/14/2015

Pages 58..61

Page 58	Page 60
<p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 valuation models, and therefore, the</p> <p>3 workpapers would be informative as to</p> <p>4 whether or not there were systematic</p> <p>5 overvaluations or not.</p> <p>6 Secondly, audit firms in the</p> <p>7 course of the audit, particularly if a</p> <p>8 firm has some stresses, will consider</p> <p>9 whether there's a need for a going</p> <p>10 concern opinion, and I would expect that</p> <p>11 certainly in connection with the 2007</p> <p>12 audit there would be some workpapers in</p> <p>13 the Deloitte &amp; Touche files that would</p> <p>14 show whatever work they did in</p> <p>15 considering whether or not they would</p> <p>16 need to insist upon a going concern or</p> <p>17 provide a going concern opinion in the</p> <p>18 financials.</p> <p>19 Q. So, Dr. Finnerty, you did not</p> <p>20 have Deloitte's workpapers available to</p> <p>21 you when you put together the report that</p> <p>22 you submitted on March 2nd; is that</p> <p>23 correct?</p> <p>24 A. That's correct, I did not.</p> <p>25 Q. And did you have any</p>	<p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 was, what was -- what was written about</p> <p>3 by others who had done that review. I</p> <p>4 didn't do -- I didn't feel it was</p> <p>5 necessary to do my own independent</p> <p>6 review, and didn't because I felt I could</p> <p>7 rely upon the work of others.</p> <p>8 Q. And what others are you</p> <p>9 referring to?</p> <p>10 A. The OIG report, for example,</p> <p>11 which found that Bear Stearns was</p> <p>12 undercapitalized.</p> <p>13 Q. And did you do any independent</p> <p>14 calculations of Bear Stearns' liquidity</p> <p>15 during the relevant time period?</p> <p>16 MR. HENKEN. Object to form.</p> <p>17 A. I did the calculations that</p> <p>18 are embodied in attachment 28, where I</p> <p>19 compared Bear Stearns to the other four</p> <p>20 large publicly traded broker-dealers So</p> <p>21 I did that particular comparison. In the</p> <p>22 report there are various exhibits that</p> <p>23 have -- whatever -- the calculations that</p> <p>24 I did that reflect on the liquidity. I</p> <p>25 think attachment 28 is the one that's</p>
Page 59	Page 61
<p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 valuations of Bear Stearns' assets</p> <p>3 available to you when you prepared your</p> <p>4 report from March 2nd?</p> <p>5 A. I had the valuations that Bear</p> <p>6 Stearns did, and there were valuations</p> <p>7 that were summarized in their -- their</p> <p>8 quarterly and annual reports. There were</p> <p>9 many documents internally that talked</p> <p>10 about valuation issues, mark-to-market</p> <p>11 disputes. So there were a number of</p> <p>12 documents that were informative on that</p> <p>13 issue, but I didn't have the workpapers.</p> <p>14 Q. Dr. Finnerty, did you conduct</p> <p>15 an independent analysis of the valuations</p> <p>16 of any of Bear Stearns' assets during the</p> <p>17 relevant time period?</p> <p>18 MR. HENKEN: Object to form.</p> <p>19 A. No. I relied on the documents</p> <p>20 I reviewed I didn't do my own.</p> <p>21 Q. Did you do any evaluation of</p> <p>22 Bear Stearns' capital during the relevant</p> <p>23 time period?</p> <p>24 MR. HENKEN: Object to form.</p> <p>25 A. I reviewed the record and what</p>	<p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 most directly relevant.</p> <p>3 Q. And other than attachment 28,</p> <p>4 did you do any other analysis,</p> <p>5 independent analysis of Bear Stearns'</p> <p>6 liquidity?</p> <p>7 A. Yes. And I would include the</p> <p>8 market's assessment of the credit</p> <p>9 quality, because credit quality is</p> <p>10 fundamentally tied to liquidity</p> <p>11 And so I looked and analyzed</p> <p>12 the changes in Bear Stearns' credit</p> <p>13 spreads on its bonds, its swap spread,</p> <p>14 and I analyzed the changes in those</p> <p>15 spreads in attachment 29. I looked at</p> <p>16 the 5 year CDS spread, the 10 year yield</p> <p>17 spread over the course of the relevant</p> <p>18 period.</p> <p>19 So I was looking at the</p> <p>20 market's, it's really the market's</p> <p>21 assessment of liquidity and credit and</p> <p>22 all those factors that affect its</p> <p>23 financial condition.</p> <p>24 And so that's the analysis</p> <p>25 that, the calculations I did. You I did</p>

Merrill Corporation - New York

1-800-325-3376

www.merrillcorp.com/law/



Confidential

JOHN D. FINNERTY

- 05/14/2015

Pages 234..237

<p style="text-align: right;">Page 234</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 economically significant?</p> <p>3 A. Something that is, is clearly</p> <p>4 routine like promotion of a vice</p> <p>5 president, I mean that's not worth even</p> <p>6 paying attention to. It's not going to</p> <p>7 move the price of the stock.</p> <p>8 Q. So you've made some</p> <p>9 determination that even the</p> <p>10 non-economically significant items are</p> <p>11 noteworthy in their -- in their ability</p> <p>12 to potentially move the stock?</p> <p>13 A. Yes, sometimes they are.</p> <p>14 Q. How did you control for</p> <p>15 company-specific non-fraud news on days</p> <p>16 that you designated as fraud days in your</p> <p>17 -- in your attachment 31?</p> <p>18 MR. HENKEN: Object to form.</p> <p>19 Q. Let me rephrase that. How did</p> <p>20 you control for company-specific</p> <p>21 non-fraud news on days that you</p> <p>22 designated as fraud days in attachment</p> <p>23 30?</p> <p>24 A. 30 --</p> <p>25 Q. Sorry, 31.</p>	<p style="text-align: right;">Page 236</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 it as fraud-related and if it was not</p> <p>3 related to the allegations in the</p> <p>4 complaint then it was not coded that way.</p> <p>5 Q. Okay. So did you choose the</p> <p>6 -- strike that.</p> <p>7 Did you make the determination</p> <p>8 yourself as to what was fraud-related and</p> <p>9 what was non-fraud-related in attachment</p> <p>10 30?</p> <p>11 A. Yes.</p> <p>12 Q. And if you look at attachment</p> <p>13 30, January 10th, 2008. Do you see that</p> <p>14 date?</p> <p>15 A. I do.</p> <p>16 Q. And you have non-fraud-related</p> <p>17 news listed there, correct?</p> <p>18 A. Correct.</p> <p>19 Q. And in your attachment 30</p> <p>20 there is a zero in the non-fraud-related</p> <p>21 column for January 10th. Can you explain</p> <p>22 that, please?</p> <p>23 A. I can't explain that one.</p> <p>24 That may be a mistake.</p> <p>25 Q. Would you look at January</p>
<p style="text-align: right;">Page 235</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 A. 30, 31 should be consistent.</p> <p>3 MR. HENKEN: Object to form.</p> <p>4 A. I'm sorry, could you read that</p> <p>5 question back.</p> <p>6 Q. Let me rephrase it again.</p> <p>7 When you -- let me find your errata, Dr.</p> <p>8 Finnerty, hold on one second.</p> <p>9 What does zero indicate in the</p> <p>10 non-fraud-related column in attachment</p> <p>11 31?</p> <p>12 MR. LOCKWOOD: 31?</p> <p>13 MS. CAREY: 31.</p> <p>14 A. Zero would indicate that we</p> <p>15 found some fraud-related news. Whether</p> <p>16 it's -- let's see. If we found some</p> <p>17 fraud-related news we would code it as a</p> <p>18 zero.</p> <p>19 Q. Okay. And I want to</p> <p>20 understand how you determined what was</p> <p>21 fraud news versus non-fraud news on a</p> <p>22 particular day. Can you explain that,</p> <p>23 please?</p> <p>24 A. If it was related to the</p> <p>25 allegations in the complaint we treated</p>	<p style="text-align: right;">Page 237</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 16th, 2008 in attachment 30. And you</p> <p>3 have non-fraud-related news listed there.</p> <p>4 And in attachment 31 you have it marked</p> <p>5 zero. Do you see that?</p> <p>6 A. Yes, I do.</p> <p>7 Q. Can you explain that, please?</p> <p>8 A. I can't explain that one</p> <p>9 either. Let me call back to the office,</p> <p>10 let me get the people who helped me with</p> <p>11 this and resolve that because I can't</p> <p>12 explain these inconsistencies. Now might</p> <p>13 be a good time for a break. Let me call</p> <p>14 back and ask. I'll give you an answer.</p> <p>15 Q. I have several more</p> <p>16 inconsistencies to show you so you might</p> <p>17 want to hold off until we do all of them.</p> <p>18 A. Sure, let's do the whole list.</p> <p>19 MS. CAREY: We can take a</p> <p>20 break now.</p> <p>21 MR. HENKEN: It actually</p> <p>22 sounds like --</p> <p>23 MS. CAREY: You want to keep</p> <p>24 going? It will be awhile.</p> <p>25 MR. HENKEN: You want to take</p>

Merrill Corporation - New York

1-800-325-3376

www.merrillcorp.com/law/



Confidential  
JOHN D. FINNERTY - 05/14/2015 Pages 258..261

<p style="text-align: right;">Page 258</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 Q. And do you attribute that</p> <p>3 change in the inflation number to a</p> <p>4 leakage of fraud?</p> <p>5 A. No. If there were leakage, if</p> <p>6 truly leakage of the fraud, the amount of</p> <p>7 inflation would, the amount of inflation</p> <p>8 would actually -- let's see. Yes, yes, I</p> <p>9 would attribute that to the leakage of</p> <p>10 the fraud because that winds up, the</p> <p>11 leakage of the fraud winds up decreasing</p> <p>12 the inflation, so the effect of the</p> <p>13 leakage is to reduce the amount of</p> <p>14 inflation in the stock.</p> <p>15 Q. Even on days when there is</p> <p>16 statistically significant non-fraud news</p> <p>17 you would still attribute the decrease in</p> <p>18 inflation to leakage of the fraud; is</p> <p>19 that correct?</p> <p>20 A. The only thing that can cause</p> <p>21 the, the decrease in inflation is the</p> <p>22 leakage relative to the fraud. That's</p> <p>23 independent of whatever, whatever news</p> <p>24 the company is disclosing unrelated to</p> <p>25 the fraud. The leakage of the fraud is,</p>	<p style="text-align: right;">Page 260</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 (Record read as requested.)</p> <p>3 A. The first part of the question</p> <p>4 I don't understand. The abnormal return</p> <p>5 I'm attributing to the, to the</p> <p>6 economically statistically -- I'll say</p> <p>7 the statistically significant release of</p> <p>8 news unrelated to the fraud.</p> <p>9 The release of information in</p> <p>10 the market, the leakage is not related to</p> <p>11 the public news that's disclosed. That</p> <p>12 -- that leakage occurs independent of</p> <p>13 that effect.</p> <p>14 Q. Okay. I want to talk a little</p> <p>15 bit more again about how you determined</p> <p>16 what was fraud news versus non-fraud news</p> <p>17 in attachment 30. And you had said</p> <p>18 previously that fraud-related news was</p> <p>19 determined if it was related to</p> <p>20 allegations in the complaint; is that</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. And what did you mean by</p> <p>24 related to allegations in the complaint?</p> <p>25 Can you be more specific?</p>
<p style="text-align: right;">Page 259</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 is related specifically to the items that</p> <p>3 are, that are disclosed in the, in the</p> <p>4 complaint, and what the coding of the one</p> <p>5 and zero, what the coding of the one</p> <p>6 items is reflecting publicly available</p> <p>7 news, but as I've testified earlier, the</p> <p>8 nature of the leakage is that it's</p> <p>9 information that is being disbursed</p> <p>10 privately. In other words, it's not</p> <p>11 being disclosed through press releases or</p> <p>12 company SEC filings. It's information</p> <p>13 that's being disclosed outside of the</p> <p>14 public arena.</p> <p>15 Q. So your testimony is that the</p> <p>16 leakage is due -- strike that.</p> <p>17 Your testimony is that the</p> <p>18 inflation is due to the leakage of the</p> <p>19 fraud, but the abnormal return, which is</p> <p>20 statistically significant, is attributed</p> <p>21 to non-fraud news?</p> <p>22 MR. HENKEN: Object to form.</p> <p>23 Q. Is that correct?</p> <p>24 A. I don't know, can you give me</p> <p>25 that back.</p>	<p style="text-align: right;">Page 261</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 A. Just what the words say.</p> <p>3 Q. When you -- was there any need</p> <p>4 in your application -- strike that.</p> <p>5 In determining whether news</p> <p>6 was related to the fraud alleged in the</p> <p>7 complaint, did the news item need to</p> <p>8 demonstrate that the market was aware of</p> <p>9 the fraud that was alleged?</p> <p>10 A. The nature of leakage is that</p> <p>11 the, the market as a whole is not aware</p> <p>12 of it or not necessarily aware of it.</p> <p>13 The information is leaking into the</p> <p>14 market because of the trading activity of</p> <p>15 people who may be involved with Bear</p> <p>16 Stearns and see these problems or</p> <p>17 perceive these problems and trade on the</p> <p>18 basis of that information.</p> <p>19 Q. Okay. So we're going to back</p> <p>20 up a little bit. Just to be clear, I</p> <p>21 want to just make sure I understand your</p> <p>22 attachment 31. On days where you</p> <p>23 determined that all the news was</p> <p>24 non-fraud-related and the abnormal return</p> <p>25 was statistically significant, you would</p>



Confidential  
JOHN D. FINNERTY - 05/14/2015 Pages 290..293

<p style="text-align: right;">Page 290</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 I believe there was a downgrade after</p> <p>3 December 20th. Maybe I'm misremembering.</p> <p>4 Thought there was a rating change after</p> <p>5 December 20th.</p> <p>6 Q. I'm referring to paragraph 210</p> <p>7 in your report.</p> <p>8 A. This is clearly before. That</p> <p>9 wasn't what I was referring to. I</p> <p>10 believe there was another rating action</p> <p>11 of some sort following the earnings</p> <p>12 release and the announcement of the loss</p> <p>13 on December 20th. And it specifically --</p> <p>14 my recollection is there were reports and</p> <p>15 I think one of them was a rating agency</p> <p>16 report that expressed concern about the,</p> <p>17 the effect the loss would have on the</p> <p>18 calculated leverage ratio.</p> <p>19 Q. So I'm talking about the</p> <p>20 downgrade in November 15th, 2007. That's</p> <p>21 not evidence of leakage, is that your</p> <p>22 testimony?</p> <p>23 A. I don't know. As I testified,</p> <p>24 I'm being conservative I think in</p> <p>25 starting the leakage period at December</p>	<p style="text-align: right;">Page 292</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 Moody's said that Bear Stearns' ratings</p> <p>3 benefits from its ample capital position</p> <p>4 and strong liquidity profile, are you</p> <p>5 aware of that?</p> <p>6 A. If you tell me that I take</p> <p>7 your representation.</p> <p>8 Q. And I'm representing that it</p> <p>9 does say that. Is that consistent with</p> <p>10 your claim that Moody's demonstrates</p> <p>11 leakage of information -- sorry, strike</p> <p>12 that.</p> <p>13 Is Moody's statement that Bear</p> <p>14 Stearns had ample capital and a strong</p> <p>15 liquidity profile consistent with your</p> <p>16 view that the Moody's report demonstrates</p> <p>17 leakage of fraud?</p> <p>18 A. No. What it would suggest is</p> <p>19 that they weren't fully aware of the --</p> <p>20 of the seriousness of the situation at</p> <p>21 Bear Stearns even though they downgraded</p> <p>22 them. They wouldn't have made the</p> <p>23 comment about ample liquidity if they</p> <p>24 believed that.</p> <p>25 Q. Can you explain why you have</p>
<p style="text-align: right;">Page 291</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 20th. So I'm not -- I'm not attributing</p> <p>3 anything to do with that particular</p> <p>4 rating action, I'm not attributing it to</p> <p>5 leakage.</p> <p>6 Q. And are you attributing any</p> <p>7 ratings downgrades to -- strike that.</p> <p>8 Is it possible that ratings</p> <p>9 downgrades could have been driven by</p> <p>10 market events?</p> <p>11 MR. HENKEN: Object to form.</p> <p>12 A. Rating actions are driven by</p> <p>13 changes in the creditworthiness of a</p> <p>14 company. If all of the companies in a</p> <p>15 particular industry are similarly</p> <p>16 affected by deterioration in credit</p> <p>17 conditions then in that sense you could</p> <p>18 have a market impact or industry impact.</p> <p>19 Q. And so it's -- strike that.</p> <p>20 And there was a, a downgrade</p> <p>21 by Moody's on December 20th, 2007, do you</p> <p>22 recall that?</p> <p>23 A. That's the one I was referring</p> <p>24 to earlier.</p> <p>25 Q. Okay. And in that announcement</p>	<p style="text-align: right;">Page 293</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 the Moody's report listed as non-fraud</p> <p>3 news in attachment 30?</p> <p>4 A. You asked me about that</p> <p>5 before. The rating decision that was</p> <p>6 described in the report, we read the</p> <p>7 report, tied the rating downgrade to</p> <p>8 anticipated rates of delinquency,</p> <p>9 foreclosure and real estate owned in the</p> <p>10 underlying collateral. And so based on</p> <p>11 the justification that they provided, it</p> <p>12 doesn't appear to be directly related to</p> <p>13 the fraud. I mean the rationale they</p> <p>14 give is tied specifically to</p> <p>15 characteristics of the underlying</p> <p>16 collateral.</p> <p>17 Q. So if that's the case and the</p> <p>18 news doesn't appear to be directly</p> <p>19 related to the fraud, how is it that that</p> <p>20 report is nevertheless in your opinion</p> <p>21 evidence of leakage?</p> <p>22 A. When I gave you that earlier</p> <p>23 answer I wasn't looking at this</p> <p>24 disclosure, what's actually in the</p> <p>25 report. I mean generally the</p>



Confidential

JOHN D. FINNERTY

- 05/14/2015

Pages 294..297

<p style="text-align: right;">Page 294</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 deterioration in the credit quality would</p> <p>3 be certainly consistent with evidence of</p> <p>4 leakage. Apparently this particular</p> <p>5 rating action which was based on</p> <p>6 something unrelated to the fraud would</p> <p>7 not be evidence of leakage.</p> <p>8 Is it time for another break?</p> <p>9 MS. CAREY: Sure, if you'd</p> <p>10 like one that's fine.</p> <p>11 THE WITNESS: Can we talk</p> <p>12 about logistics. I know I messed</p> <p>13 everybody up by --</p> <p>14 MR. HENKEN: Hold on.</p> <p>15 THE VIDEOGRAPHER: We're going</p> <p>16 off the record, the time is 4:44</p> <p>17 p.m., this is the end of file</p> <p>18 number 6.</p> <p>19 (A recess was taken.)</p> <p>20 THE VIDEOGRAPHER: Here marks</p> <p>21 the beginning of file number 7, we</p> <p>22 are back on the record, the time is</p> <p>23 5 o'clock p.m.</p> <p>24 Q. Dr. Finnerty, generally</p> <p>25 speaking, if the abnormal stock price</p>	<p style="text-align: right;">Page 296</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 cumulative effect over the time period in</p> <p>3 order to make a determination as to</p> <p>4 whether there's a statistically</p> <p>5 significant impact. But there certainly</p> <p>6 can be leakage. Leakage may not be -- it</p> <p>7 may turn out the leakage isn't</p> <p>8 significant, but the leakage nevertheless</p> <p>9 occurs.</p> <p>10 I mean there are two</p> <p>11 different, two different issues. One is</p> <p>12 the economic issue of whether there's</p> <p>13 leakage. The second is the statistical</p> <p>14 issue of whether it rises to the level of</p> <p>15 statistical significance.</p> <p>16 Q. So if the -- if you looked at</p> <p>17 the overall cumulative effect on Bear</p> <p>18 Stearns' stock during the leakage period</p> <p>19 and it was not statistically significant</p> <p>20 at the 5 percent or 1 percent level, or</p> <p>21 10 percent level let's say, could that</p> <p>22 nevertheless be considered a leakage</p> <p>23 period?</p> <p>24 A. Yes. Leakage occurs as a</p> <p>25 result of the disclosure of information.</p>
<p style="text-align: right;">Page 295</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 changes over a period of time are not</p> <p>3 statistically significant, could that</p> <p>4 period of time nevertheless be considered</p> <p>5 a leakage period?</p> <p>6 A. Abnormal, abnormal returns?</p> <p>7 I'm not sure what -- I can't follow your</p> <p>8 question.</p> <p>9 Q. If the abnormal returns over a</p> <p>10 period are not statistically significant,</p> <p>11 could that period of time nevertheless be</p> <p>12 considered a leakage period?</p> <p>13 A. Whether it's a leakage period</p> <p>14 depends upon whether any information is</p> <p>15 disclosed. Yes, it could be a leakage</p> <p>16 period. There's a separate issue as to</p> <p>17 whether or not the impact on the stock</p> <p>18 price was significant. But it certainly</p> <p>19 can be a leakage period.</p> <p>20 Q. Wouldn't the lack of any</p> <p>21 statistical significance signal that the</p> <p>22 stock price movement could be due to</p> <p>23 random chance?</p> <p>24 A. One has to look at the overall</p> <p>25 cumulative effect and judge that</p>	<p style="text-align: right;">Page 297</p> <p>1 JOHN D. FINNERTY - CONFIDENTIAL</p> <p>2 Whether -- whether that effect is</p> <p>3 statistically significant is an entirely</p> <p>4 separate statistical issue, and how to</p> <p>5 treat it within the damage calculations</p> <p>6 is an issue for the trier of fact.</p> <p>7 Q. And you determined that there</p> <p>8 was a negative 25.71 percent decline in</p> <p>9 Bear Stearns' share price over the entire</p> <p>10 leakage period; is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Can you describe the</p> <p>13 calculations you did to reach that</p> <p>14 estimate?</p> <p>15 A. Take attachment 31 and on all</p> <p>16 those days where there is a one in the</p> <p>17 column labeled non-fraud-related, meaning</p> <p>18 non-fraud-related information, we took</p> <p>19 those returns, we calculated the</p> <p>20 geometric average of those returns. We</p> <p>21 then calculated the standard deviation of</p> <p>22 the returns to test for statistical</p> <p>23 significance and concluded that the 25.71</p> <p>24 percent cumulative return was</p> <p>25 statistically significant at the 1</p>